

Regional News

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OLO to review Clarksburg controversy

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Montgomery County's Office of Legislative Oversight will assess how county agencies approve and enforce development standards, focusing first on actions that allowed about 600 homes to be built too tall or too close to the street in the Clarksburg Town Center.

On Tuesday, the County Council assigned the review to OLO and asked the county's Permitting Services and Park and Planning departments to review all site plans approved in the county over the past two years.

"We have a crisis of public confidence ... [and] we have to correct that crisis," said council President Thomas E. Perez (D-Dist. 5) of Takoma Park. "I want to make sure whether Clarksburg is an isolated incident or the tip of the iceberg."

Planning officials called for a top-to-bottom audit almost two weeks ago after a group of Clarksburg residents discovered hundreds of height and setback violations and learned that a planner had deleted some restrictions and lied about it.

The planner, Wynn Witthans, resigned after she admitted to changing data in a key legal document. Some of her defenders say she had not intended to falsify the document but was trying to correct inconsistencies.

But the revelations — including confusion between the county's planning and permitting departments about who is responsible for verifying compliance — have sparked new questions about the thoroughness and integrity of planning and development review processes.

"It's abundantly clear that we don't have enough enforcement people," Perez said.

The council expects a report on staffing needs in two weeks and could raise fees charged developers to pay for more inspectors, he said.

After the council examines the OLO review, which is due in September, it will decide what other questions need to be answered and may order a full audit, said Councilman Michael J. Knapp (D-Dist. 2) of Germantown, whose district includes Clarksburg.

Planning Board Chairman Derrick P. Berlage said the OLO review is consistent with the examination that planning officials want.



David S. Spence/The G

This condominium apartment building on Clarksburg Square Road is the tallest building in the Clarksburg Town Center, which violates height standards for the development. No one is calling for the building to be shortened, but the county Planning Board is still assessing what kind of sanctions the builder may face.

on fines or sanctions until July 28.

Other violations that may be discovered will be decided on a case-by-case basis by asking for amendments, the board said.

An ad hoc group of homeowners, called the Clarksburg Town Center Advisory Committee, complained to planners in August 2004 that some homes were being built higher than the steeple of historic Clarksburg United Methodist Church, an agreed-upon benchmark.

Plans designated the church as the Town Center's highest point and a centerpiece of the new development, which is well on the way to boosting Clarksburg's population from 2,000 to almost 40,000.

During a nearly nine-hour hearing in Silver Spring on Thursday, the Clarksburg committee members said they are troubled by other violations, including the construction of a townhouse in the right of way for a road promised to connect homes to the historic church.

Some County Council members have said they do not believe that the county's inspector general, Thomas J. Dagley who was appointed in April, has the staff needed to investigate the county's planning and approval process.

Clarksburg updates

• "Plan violations keep some homebuyers from moving in." www.gazette.net/200528/germantown/news/284141-1.html.

• "Group that discovered violations disappointed by Planning Board's inaction." www.gazette.net/200528/germantown/news/284142-1.html.

Stricter limits sought

In any case, reviewers need to look at why it took so long for the Department of Park and Planning to act on the Clarksburg violations, said Wayne Goldstein, a preservationist and first vice president of the Montgomery County Civic Federation.

"We've always been a complaint-driven inspection staff — [we] don't go out to every project and measure," said planning review director Rose G. Krasnow, who joined the Planning Department in November.

Staff turnover is one reason for delays in checking complaints about buildings in Clarksburg, she said.

supposed to have authority to make minor changes, [but] what's the definition of 'minor'? My fear is that a lot more of this."

Activists said they are also worried that the \$2.1 million in fines recommended by staff — roughly on a \$500,000 house and less than \$1.2 million against the developer and builders — would allow developers to benefit from violating height and setback limits.

Problems in Clarksburg highlight a "bigger picture issue" with Montgomery's Planning Department, said Drew Powell, executive director of Neighbors for a Better Montgomery, which formed to combat rapid development.

"Everybody down there is under incredible pressure from \$500 an hour development attorneys, lobbyists and elected officials," he said.

Also known as Neighbors for a Better Montgomery, the group has criticized six of the current council members and Council Executive Douglas M. Duncan (D) for getting more than half of their campaign money from developers.

On Tuesday, Duncan released a letter to Perez and Berlage, urging the board to impose "harsh" penalties against developers and call for an increase in permitting fees to pay for more enforcement.

On Thursday, the Planning Board decided that buyers who own or hold a contract for homes that are too tall or too close to streets will be protected.

Although the board decided, in two 5-0 votes, that developer Newland Communities of San Diego and various builders violated height and setback restrictions, it delayed action

But Dagley said that it is the kind of job his office was created to do and that he can hire outside investigators.

Dagley did not return calls Tuesday asking if he also will investigate the matter.

But Knapp said an investigation by the inspector general could be among "next steps."

Montgomery County Civic Federation President Dan Wilhelm said the Planning Board, which oversees the Planning Department, needs to clarify limits on planners' authority to lift restrictions. The board also needs to make sure that the public is informed and can weigh in on significant changes.

"Planning staff needs firm standards," Wilhelm said. "They are

In his letter, Duncan called the violations "a serious abuse of the public trust... that highlights shortcomings in the current development review process."

A Newland Communities spokesman, Charlie Maier, said the developer believes it did nothing wrong and followed the rules. "We believe the violations were technical at best," he said.